

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

10-cr-193-bbc

ANTONIO P. LANCE,

Defendant.

Defendant Antonio Lance has moved for his return to Stanley Correctional Institution while this federal case is pending. *See* *dk. 27*. Lance has waived his appearance at all pretrial proceedings. He reports that he will be dropped from SCI's HSED program if he does not return soon, and he is in a high risk clinical monitoring system due to his social anxiety disorder, which was supposed to provide a visit from a psychiatrist every two weeks.

The court accepts these representations and it sympathizes with Lance's situation, but it cannot accommodate his request. This court constantly writs in state prisoners for federal criminal proceedings and its policy for over a decade has been that it does not return prisoners to state custody while the federal prosecution proceeds. There are several reasons for this, the most salient of which is that the United States Marshals Service has never had the resources to shuttle prisoners, even once per case, and today, USMS staffing shortages have been exacerbated to the point that returning prisoners to state custody is not a viable option in any case.

A secondary concern used to be that the vast majority of state prisoners want to return to state custody pending federal trial, and they all have valid reasons for wanting to return to their institutional programming and treatment. There was no fair way to pick between who would get to return to state custody and who had to stay in jail. But today, such picking and choosing is not even an option given the woefully low USMS staffing levels.

To the extent that Lance has mental health treatment needs, he must ensure that jail staff is aware of them and if does not believe the jail is providing proper treatment, then his attorney must alert the court or the USMS so that it can investigate further.

It is ORDERED that Antonio Lance's motion for return to state custody is DENIED.

Entered this 11th day of February, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge